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1953

Title 55 Chapter 04-11: Cooperatives to Detention Schools - 1953

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Recommended Citation

Utah Code Annotated Title 55 4 to 11 (Michie, 1953)

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the land board, or by any other authorized agency making the sale, and shall be retained in the treasury in a special fund to be known as the emergency conservation work fund. Upon the completion of the sale, the state land board is hereby authorized to settle with the proper federal authority an account fixing the amount due the United States government and to notify the state auditor who shall draw a warrant or warrants on account of the amount so fixed, as funds accrue in said emergency conservation work fund payable to the United States, and the state treasurer shall pay such warrant or warrants out of the emergency conservation work fund or other funds designated by the land board, until the account of the United States government, with respect to such sale, becomes liquidated. This section shall not be construed to authorize the sale of state lands or products but applies only to a sale now or hereafter authorized by other provisions of law. This section is enacted to procure a continuance of emergency conservation work within the state, under such Act of Congress.

History: L. 1935, ch. 100, § 1; C. 1943, 76A-2-44.

Title of Act.

An act to provide for reimbursing the United States government for the expense of emergency conservation work if, and when, by a sale of land or products, the state derives a profit from such work.

Effective Date.

Section 2 of Laws 1935, ch. 100 (76A-2-44, Code 1943) provided that act should take effect on approval. Approved March 23, 1935.

Collateral Reference.

Social Security and Public Welfare

CHAPTER 4

SELF-HELP COOPERATIVES

- Section 55-4-1. Self-help cooperative board.
 55-4-2. Chairman, secretary-treasurer—Director—Personnel—Compensation
 55-4-3. Duties of board—Funds—Production and exchange of goods and services.
 55-4-4. Office—Meetings.
 55-4-5. Legal services.

55-4-1. Self-help cooperative board.—The state self-help cooperative board shall be composed of the members of the commission of publicity and industrial development.

History: L. 1935, ch. 72, § 1; 1937, ch. 91, § 1; 1939, ch. 89, § 1; 1941 (1st S. S.), ch. 27, § 1; C. 1943, 76A-4-1.

Compiler's Note.

The amendments of 1937, 1939 and 1941 completely rewrote the text of this section.

Title of Act.

An act creating a self-help cooperative board; providing for the appointment of an executive director of said board; delegating to said board the duty of preparing means of employment in production and distribution of goods and/or services for

all cooperative self-help associations which are organized on a nonstock, nonprofit basis, and have personnel that will work in harmony with the spirit of this act; defining the purposes of the cooperative self-help associations; and providing for the execution of such purposes.

Cross-Reference.

Commission of publicity and industrial development, 63-3-1 et seq.

Collateral References.

Associations 2.
 7 C.J.S. Associations § 2.

55-4-2. Chairman, secretary-treasurer—Director—Personnel—Compensation.—The board shall elect from its members a chairman, and a secretary-treasurer who shall hold office for a period of two years. Repayments of loans from self-help cooperatives to the state self-help cooperative board shall be made to the state treasurer who shall issue an official receipt for sums received.

The board is vested with the power to employ and remove a director who shall be a person especially qualified by training and experience to direct and supervise the administrative work of the board in cooperation with the chairman of the board. These officers with the approval of the board may employ such technical, clerical and other assistants as may be necessary to carry out the work of the board and fix their compensation in accordance with standards adopted by the department of finance; provided, the board shall not employ one of the members of said board or relatives of board members to any position over which said board has jurisdiction; provided further, that should an employee of said board be selected to membership on said board he shall resign such employment before becoming eligible to membership on said board.

History: L. 1935, ch. 72, § 2; 1937, ch. 91, § 1; 1941 (1st S. S.), ch. 27, § 1; C. 1943, 76A-4-2.

Compiler's Note.

The 1937 and 1941 amendments made various changes in text.

55-4-3. Duties of board—Funds—Production and exchange of goods and services.—It shall be the duty of the self-help cooperative board to approve plans of organization, operation, production, distribution and financing of the cooperatives, to approve of and make applications to the federal government for funds to finance the organizations, to work in harmony with the state and federal departments and agencies and other organizations which have the self-help plan included in their programs, to make such recommendations to the respective officers or departments concerned, and to encourage self-help cooperatives in their endeavor to make their members self-sustaining.

There is hereby appropriated from funds for relief purposes \$20,000 for the purpose of liquidating all self-help cooperatives which are unsuccessful and establishing those self-help cooperatives which are successful on a self-sustaining basis.

The cooperative self-help associations may produce goods and services for consumption within the cooperative organization, and may exchange with other cooperatives and the public for other goods, cash and services not produced within the cooperative.

History: L. 1935, ch. 72, § 3; 1937, ch. 91, § 1; 1939, ch. 89, § 1; C. 1943, 76A-4-3.

paragraphs and completely rewrote second paragraph.

Compiler's Note.

The 1937 and 1939 amendments made various changes in text of first and third

Collateral References.

Associations↪2.
7 C.J.S. Associations § 2.

55-4-4. Office—Meetings.—The office of the self-help cooperative board shall be maintained at the state capitol and meetings shall be held at least once each month, the day and hour to be set by said board. The board shall make written reports to the governor of its official acts and

investigations and shall make such recommendations as it deems necessary and advisable.

History: L. 1935, ch. 72, § 4; 1937, ch. 91, § 1; 1939, ch. 89, § 1; C. 1943, 76A-4-4.

Compiler's Note.

The amendments of 1937 and 1939 made no material changes in text.

55-4-5. Legal services.—The attorney general shall render such legal services in connection with the work of the board as it may require.

History: L. 1935, ch. 72, § 6; 1937, ch. 91, § 1; C. 1943, 76A-4-6.

Effective Date.

Section 7 of Laws 1935, ch. 72 (76A-4-7, Code 1943) provided that act was to take effect on approval. Approved March 25, 1935.

Compiler's Notes.

The 1937 amendment made only minor changes in text.

Section 5 of Laws 1935, ch. 72 (76A-4-5, Code 1943) was repealed by Laws 1937, ch. 91, § 2.

Collateral References.

Associations 2.
7 C.J.S. Associations § 2.

CHAPTER 5

BLIND PERSONS OPERATING VENDING STANDS

Section 55-5-1. Blind persons—Operation of vending machines or enterprise in public buildings and on public property.

55-5-2. Licensing agency—Division of vocational rehabilitation—Duties of division.

55-5-3. Issuance of licenses—Preference to blind persons—Duration and termination of license.

55-5-4. "Blind person" defined—Certification of blindness.

55-5-1. Blind persons—Operation of vending machines or enterprise in public buildings and on public property.—For the purpose of providing blind persons with an opportunity to become self-supporting, enlarging the economic opportunities of the blind and stimulating the blind to greater efforts in striving to make them self-supporting, blind persons under the provisions of this act shall be authorized to operate vending stands or other enterprises in state, county, or municipal buildings, parks or other property owned by the state of Utah, where in the discretion of the head of the department or agency in charge of the maintenance of the building, park or other property owned by the state of Utah or political subdivisions thereof such vending stands or other enterprises may be properly and satisfactorily operated by blind persons.

History: L. 1947, ch. 87, § 1; C. 1943, Supp., 76A-3-56.

Compiler's Note.

Former sections 76A-3-1 to 76A-3-55, Code 1943 were repealed by Laws 1947, ch. 89, § 27. The repealed sections governed relief and assistance to destitute persons. For present law relative to public assistance, see 55-2-1 et seq.

Title of Act.

An act providing for the giving to blind residents of the State of Utah the privilege of operating vending stands or other enterprises in state, county, or municipal buildings, parks or other property owned by the State of Utah, and providing for the construction and equipment of such vending stands for the purpose of training blind persons in carrying on business enterprises.

Cross-Reference.

Schools for deaf and blind, 64-3-1 et seq.

Collateral Reference.

Social Security and Public Welfare 222.

55-5-2. Licensing agency—Division of vocational rehabilitation—Duties of division.—The division of vocational rehabilitation, office of public instruction, is designated as the licensing agency for the purpose of carrying out the provisions of this act, and shall

(1) Take such steps as are necessary and proper to carry out the provisions of this act.

(2) With the approval of the custodian having charge of the building, park or other property in which the vending stand or other enterprise is to be located, select a location for such stand or enterprise and the type of equipment to be provided.

(3) Construct and equip stands at such place as may be deemed advisable where blind persons may be trained under the supervision of the division of vocational rehabilitation to carry on a business as a vending stand operator.

(4) Provide adequate supervision of such persons licensed to operate vending stands or other enterprises to insure efficient and orderly management thereof.

(5) Prescribe such rules and regulations as are necessary for the proper operation of such vending stands or other enterprises.

History: L. 1947, ch. 87, § 2; C. 1943, Collateral Reference.
Supp., 76A-3-57.

Social Security and Public Welfare 222.

Cross-Reference.

Vocational rehabilitation generally, 53-16-1 et seq.

55-5-3. Issuance of licenses—Preference to blind persons—Duration and termination of license.—The state licensing agency shall, in issuing each such license for the operation of a vending stand or other enterprise, give preference to blind persons who are in need of employment and who have resided for at least one year in the state of Utah. Each such license shall be issued for an indefinite period but may be terminated by the licensing agency if it is satisfied that the stand or enterprise is not being operated in accordance with the rules and regulations prescribed by such licensing agency.

History: L. 1947, ch. 87, § 3; C. 1943, Supp., 76A-3-58.

55-5-4. "Blind person" defined—Certification of blindness.—As used in this act the term "blind person" means a person who is blind according to the definition prescribed by the division of vocational rehabilitation and expressed in terms of ophthalmic measurements. Such blindness shall be certified by duly state licensed ophthalmologist.

History: L. 1947, ch. 87, § 4; C. 1943, Supp., 76A-3-59.

Separability Clause.

Section 5 of Laws 1947, ch. 87 (76A-3-60, Code 1943, Supp.) provided as follows: "The provisions of this act shall be construed as severable and should any section

or part thereof be held unconstitutional or for any other reason invalid, the remaining provisions shall not be affected thereby."

Effective Date.

Section 6 of Laws 1947, ch. 87 (76A-3-61, Code 1943, Supp.) provided that act should

take effect on approval. Approved March 18, 1947.

Collateral Reference.

Social Security and Public Welfare 222.

CHAPTER 6

TUBERCULOSIS SANATORIUMS

Section 55-6-1.	State tuberculosis sanatorium created.
55-6-2.	General corporate powers.
55-6-3.	Purpose of institution.
55-6-4.	Department of public welfare to manage Utah State Tuberculosis Sanatorium—Powers and duties of public welfare commission.
55-6-5.	Public welfare commission to administer existing laws.
55-6-6.	Public welfare commission—Acquire land—Approve building.
55-6-7.	Commission to control and manage property.
55-6-8.	Supplies.
55-6-9.	Personnel not to be pecuniarily interested in contracts.
55-6-10.	Medical superintendent—Qualifications.
55-6-11.	Residence requirements—Duties, prescribing of.
55-6-12.	Powers and duties of superintendent.
55-6-13.	Salary of medical superintendent.
55-6-14.	Official bond.
55-6-15.	Bonds—Approval and filing.
55-6-16.	Persons eligible.
55-6-17.	Patients—Admission to institution.
55-6-18.	Application for admission.
55-6-19.	Proceedings for approval by district judge.
55-6-20.	Certification of approval.
55-6-21.	Admission of disabled miners—Terms—Conditions.
55-6-22.	Medical director to receive applications.

55-6-1. State tuberculosis sanatorium created.—That there be, and there is created, a Utah state institution which shall be a body corporate under the name of Utah State Tuberculosis Sanatorium.

History: L. 1937, ch. 38, § 1; C. 1943, 76A-5-1.

Title of Act.

An act to establish the Utah State Tuberculosis Sanatorium; to provide for the establishment, equipping and operating of a tuberculosis sanatorium for the treatment of tuberculosis, silicosis, and other kindred diseases; to provide for the location and acquiring of a site therefor, for the management and control thereof, and the admission of patients thereto.

Comparable Provisions.

Idaho Code 1947, § 66-1002 (providing

for establishment, construction and equipment of Idaho tuberculosis hospital, provided that grant of funds for payment of 45 per cent of cost thereof be made the state by the United States).

Iowa Code 1950, § 271.1 (state sanatorium for treatment of tuberculosis to be hereafter known as state sanatorium).

Montana Rev. Codes 1947, § 80-201 (establishing "Montana State Tuberculosis Sanatorium").

Collateral References.

Hospitals 2.

41 C.J.S. Hospitals § 4.

55-6-2. General corporate powers.—It shall have perpetual succession, a corporate seal, and, by the aforementioned name, may sue and may be sued, except for money judgment, may contract and be contracted with, and may take and hold by purchase, gift, devise, or bequest real and personal property required for its uses. It may also convert such property, when not suitable for its use, into other property which may be suitable or into money. It shall be deemed a public corporation and its properties shall be exempt from all taxes and assessments.

History: L. 1937, ch. 38, § 2; C. 1943, 76A-5-2. Collateral References.

Hospitals 2.

41 C.J.S. Hospitals § 4.

55-6-3. Purpose of institution.—The purpose of the institution shall be to establish, equip, operate and maintain a sanatorium for the care and treatment of persons afflicted with tuberculosis, silicosis, and other kindred diseases and as the state miners' hospital for disabled miners, whether afflicted with any of said diseases or not, provided that the public welfare commission hereinafter created may in its discretion house such persons afflicted with silicosis as are admitted to said sanatorium in a separate building from tubercular patients.

History: L. 1937, ch. 38, § 3; 1941, ch. 70, § 1; C. 1943, 76A-5-3. Collateral References.

Hospitals 2.

41 C.J.S. Hospitals § 4.

Compiler's Note.

The 1941 amendment added all of that part of section following the word "diseases" the first time it appears.

55-6-4. Department of public welfare to manage Utah State Tuberculosis Sanatorium—Powers and duties of public welfare commission.—The government and control of the Utah State Tuberculosis Sanatorium and the management of its properties and affairs shall be vested in the department of public welfare under the public welfare commission.

The powers and duties of said commission as to the mode of government of said institution shall be as follows:

(a) To make rules and regulations not inconsistent with the laws of this state, for the government of the sanatorium.

(b) To hold meetings at least once a month at the sanatorium for the transaction of business relating to such institution.

(c) To keep a record of its proceedings relating to the affairs of the sanatorium open at all times during office hours to the inspection of any citizen.

(d) With the approval of the governor shall appoint a medical director to hold his office during the pleasure of the commission.

(e) To receive, take and hold property, both real and personal, in trust for the state and for the use and benefit of the sanatorium.

(f) To keep constantly advised of all items of labor and expense and the condition of the buildings and property of the sanatorium, and to operate, maintain and repair the buildings, grounds and other physical properties; provided, however, that the roads and driveways on the grounds shall be maintained by the department of engineering. When authorized by the department of finance and under the supervision of the department of engineering to make such improvements as, in its judgment, are actually necessary for the care of the patients. The commission shall have discretionary power, in case of absolute necessity, to remove patients to the nearest possible safe and appropriate place.

(g) To cause the accounts of the sanatorium to be so kept and reported as to show the quality, quantity, cost and vendor of every article purchased.

(h) To examine and audit all expenditures of the superintendent for salary of employees and all other expenses incident to the conduct of the sanatorium and care and maintenance of the patients, and, if approved by it, to certify the same to the auditor.

(i) To make regulations and fix the terms for the admission, treatment and discharge of patients, not inconsistent with this act.

(j) To make diligent inquiry in regard to labor and expenses, the condition of the sanatorium and its property.

History: L. 1941, ch. 69, § 1; C. 1943, 76A-5-4.

Collateral References.
Hospitals 3.
41 C.J.S. Hospitals § 5.

55-6-5. Public welfare commission to administer existing laws.—The public welfare commission shall succeed to all the powers and discharge all the duties and perform all the functions which by existing and continuing law are conferred upon and required to be performed by the state board of health with respect to the government, management and control of the Utah State Tuberculosis Sanatorium, whenever any existing and continuing law relative to the government, management or control of the sanatorium refers to or names the state board of health as the body in which the control of said sanatorium is vested, it shall be construed to refer to and mean the public welfare commission.

History: L. 1941, ch. 69, § 2; C. 1943, 76A-5-5.

Collateral References.
Hospitals 3.
41 C.J.S. Hospitals § 5.

55-6-6. Public welfare commission—Acquire land—Approve building.—That the public welfare commission hereinafter created shall have the power to acquire by purchase or otherwise such additional land adjacent to that already owned by said sanatorium as may be necessary for its purposes hereinbefore set out and to acquire such land may exercise in the name of said sanatorium the right of eminent domain such use being hereby declared to be a public purpose, and shall cause to be erected on said land now owned by said sanatorium or that which may hereafter be acquired, such buildings and other improvements as in its judgment may be necessary for its purposes, which said buildings and improvements shall include a sanatorium for disabled miners, which shall be a separate building or buildings, as may be determined by said commission. But the designs, plans and specifications for such additional buildings and other improvements as may be erected by said commission shall be prepared by the Utah state engineering department, subject to approval by the public welfare commission and all such buildings and improvements shall be constructed by the said engineering department.

History: L. 1937, ch. 38, § 9; 1941, ch. 70, § 1; C. 1943, 76A-5-11.

Compiler's Notes.

The 1941 amendment transferred all powers, relative to acquisition and control of hospitals, from the building commission to the public welfare commission.

This section as originally enacted was repealed by Laws 1941, ch. 67, § 5, however, in the present compilation it is assumed that the legislature intended that the amendment of 1941, ch. 70, § 1, should control.

Sections 4 to 8 of Laws 1937, ch. 38 (76A-5-6 to 76A-5-10, Code 1943) were repealed by Laws 1941, ch. 69, § 1.

Collateral References.

Hospitals⇒2.
41 C.J.S. Hospitals § 4.

55-6-7. Commission to control and manage property.—That as and when each building or other improvement is constructed for said sanatorium, the government, control and management of the same and all the property, real and personal, of said sanatorium, shall be vested in the public welfare commission.

History: L. 1937, ch. 38, § 10; 1941, ch. 70, § 1; C. 1943, 76A-5-12.

Compiler's Notes.

The so-called 1941 amendment was in reality a reenactment of the section.

This section as originally enacted was repealed by Laws 1941, ch. 69, § 5, how-

ever, in the present compilation it is assumed that the legislature intended that the amendment of 1941, ch. 70, § 1, should control.

Collateral References.

Hospitals⇒6.
41 C.J.S. Hospitals § 5.

55-6-8. Supplies.—All supplies for the sanatorium shall be purchased in the manner provided by general law.

History: L. 1937, ch. 38, § 11; C. 1943, 76A-5-13.

Collateral References.

Hospitals⇒6.
41 C.J.S. Hospitals § 5.

55-6-9. Personnel not to be pecuniarily interested in contracts.—No member of the commission of public welfare or employee of the department of public welfare or the medical director may be pecuniarily interested in any contract for supplies furnished for the sanatorium.

History: L. 1937, ch. 38, § 12; 1941, ch. 69, § 4; C. 1943, 76A-5-14.

Collateral References.

Hospitals⇒6.
41 C.J.S. Hospitals § 5.

Compiler's Note.

The 1941 amendment rewrote text of section completely.

55-6-10. Medical superintendent—Qualifications.—The medical superintendent must be a licensed physician under the Laws of Utah and must have had at least three years resident experience in an institution or institutions of like character to the sanatorium and must be experienced in the care and treatment of tuberculosis, silicosis, and other kindred diseases.

History: L. 1937, ch. 38, § 14; 1941, ch. 70, § 1; C. 1943, 76A-5-16; L. 1947, ch. 93, § 1.

Compiler's Notes.

The 1941 amendment substituted medical director for "medical superintendent" and the 1947 amendment substituted the above terms again as they appeared in the original enactment.

Laws 1941, ch. 69, contained a section 3 which provided that the person holding the position of medical superintendent of the sanatorium, provided for by section 14 of the act as originally enacted, at the

time chapter 69 became effective, should continue in such position under the same terms as to salary and duties without specific action on the part of the public welfare commission, subject, however, to removal or discharge at any time thereafter by the commission at its discretion.

Section 13 of Laws 1937, ch. 38 (76A-5-15, Code 1943) was repealed by Laws 1941, ch. 69, § 5.

Collateral References.

Hospitals⇒6.
41 C.J.S. Hospitals § 5.

55-6-11. Residence requirements—Duties, prescribing of.—The medical superintendent must reside at the sanatorium when a suitable residence

is provided for him and until such residence is provided he must reside near the same, and give his entire time and attention to promoting the best interests of the institution. His respective duties, not specified by law, must be prescribed by the public welfare commission.

History: L. 1937, ch. 38, § 15; 1941, ch. 70, § 1; C. 1943, 76A-5-17; L. 1947, ch. 93, § 1.

"medical superintendent" who now has full charge of hospital for "medical director."

Compiler's Note.

The 1947 amendment deleted provisions relative to superintendent, and substituted

Collateral References.

Hospitals 6.
41 C.J.S. Hospitals § 5.

55-6-12. Powers and duties of superintendent.—The medical superintendent shall be the chief executive officer of the sanatorium and subject to the control of the public welfare commission on all matters, have powers and duties as follows:

- (a) To manage the business affairs of the sanatorium.
- (b) With the consent of the said department of finance to fix the number and compensation of, appoint, control and remove the attendants, assistants and all other employees.
- (c) To prescribe and enforce the performance of the duties of the attendants and assistants.
- (d) To ascertain and report to the department of finance the amount, character and quality of provisions, fuel, and clothing required for the six months ending on the first of June and December in each year.
- (e) With the consent of the department of finance to make any expenditures necessary in the performance of his duties.
- (f) To keep a record of his official acts in the manner prescribed by the rules and regulations of the public welfare commission.
- (g) To make up his annual accounts on the first of July in each year, and, as soon thereafter as possible, to report a statement thereof, and of the general condition of the sanatorium to both the public welfare commission and department of finance.
- (h) He must estimate biennially in advance the probable expense of the sanatorium and submit such estimates to both the public welfare commission and department of finance, at its regular meetings for consideration and approval.
- (i) To determine the treatment and prescribe and enforce the sanitary regulations of the sanatorium.
- (j) To regulate the admission and release of patients.
- (k) And generally to direct and control the medical affairs of the sanatorium.
- (l) To have full control of the medical staff.

History: L. 1937, ch. 38, § 16; 1941, ch. 70, § 1; C. 1943, 76A-5-18.

Collateral References.

Hospitals 6.
41 C.J.S. Hospitals § 5.

Compiler's Note.

The 1941 amendment completely rewrote this section, and added that part of section appearing after subsec. (h).

55-6-13. Salary of medical superintendent.—The salary of the medical superintendent shall be fixed by the public welfare commission, with the approval of the finance commission.

History: L. 1937, ch. 38, § 17; 1941, ch. 70, § 1; C. 1943, 76A-5-19; L. 1947, ch. 93, § 1.

Compiler's Note.

The 1941 and 1947 amendments completely rewrote this section.

Cross-Reference.

Department of finance, 64-2-1 et seq.

Collateral References.

Hospitals ⇐ 6.

41 C.J.S. Hospitals § 5.

55-6-14. Official bond.—The medical director must execute an official bond for the faithful performance of his duties in such amount and in such form as shall be determined by the department of finance.

History: L. 1937, ch. 38, § 18; 1941, ch. 69, § 4; C. 1943, 76A-5-20.

Compiler's Note.

The 1941 amendment rewrote section.

Collateral References.

Hospitals ⇐ 6.

41 C.J.S. Hospitals § 5.

55-6-15. Bonds—Approval and filing.—The official bonds required by the provisions of this act or the rules and regulations of the public welfare commission must be approved by the department of finance and filed in the office of the state auditor.

History: L. 1937, ch. 38, § 19; 1941, ch. 70, § 1; C. 1943, 76A-5-21.

Compiler's Note.

The 1941 amendment rewrote the provisions of this section.

55-6-16. Persons eligible.—Only persons who have resided in this state continuously for two (2) years next preceding application shall be admitted to the tuberculosis division of said sanatorium, provided, that the public welfare commission may waive the residence requirement in the interest of the public health. They must be persons afflicted with tuberculosis, and shall be known as patients, or miners who have become disabled as a result of pursuing their occupation as such in mines of the state of Utah for at least five years, in which case they shall be known as members who shall be admitted without cost to the disabled miner's division of said sanatorium. The restrictions herein as to residence shall not apply to private patients.

History: L. 1937, ch. 38, § 20; 1941, ch. 70, § 1; C. 1943, 76A-5-22; L. 1947, ch. 94, § 1.

Compiler's Note.

The 1941 and 1947 amendments made material changes in text.

Collateral References.

Hospitals ⇐ 6.

41 C.J.S. Hospitals § 5.

55-6-17. Patients—Admission to institution.—Patients who may be admitted to said institution may be of three classes, to-wit: (a) indigent public patients; (b) nonindigent public patients; (c) private patients.

"Indigent public patients" are such persons who possess no property or means of any kind and who have no relative who may be held legally responsible for their support; such patients shall be supported entirely at the expense of the state while in said institution.

"Nonindigent public patients" are such persons who possess property out of which the state may be paid for their maintenance at the sanatorium or who have relatives who may be held liable for their support but who do not have income sufficient to pay for their maintenance at the sanatorium.

"Private patients" are such persons as are financially able to pay for their maintenance at the sanatorium.

Indigent public patients shall be received and maintained at said institution in preference to either of said other classes and nonindigent public patients shall be received and maintained in said sanatorium in preference to private patients.

The said institution shall have a lien against any property of any nonindigent public patient admitted to or maintained in said institution for the maintenance of such patient.

Private patients shall be maintained at said institution at their own expense upon private agreement with the medical superintendent and under and pursuant to such regulations and upon such schedule of charges as may be fixed by the board.

History: L. 1937, ch. 38, § 21; C. 1943, 76A-5-23.

Collateral References.

Hospitals 6.

41 C.J.S. Hospitals § 5.

55-6-18. Application for admission.—Admission to said sanatorium of patients shall be upon application. The application shall be made by the patient or may be made by the parent, guardian or friend of any incompetent patient. The application shall be accompanied by the certificates of a duly licensed and reputable practicing physician of this state, stating that he has thoroughly examined the person for whom admission application has been made and that such person is suffering from and afflicted with tuberculosis, silicosis or other kindred diseases; provided, that no person while afflicted with and under quarantine for any other contagious, infectious or transmissible disease shall be admitted.

History: L. 1937, ch. 38, § 22; 1941, ch. 70, § 1; C. 1943, 76A-5-24.

Collateral References.

Hospitals 6.

41 C.J.S. Hospitals § 5.

Compiler's Note.

The 1941 amendment made minor changes in text.

55-6-19. Proceedings for approval by district judge.—Indigent public patients and nonindigent public patients shall be admitted to the sanatorium when the application of any such patient has been approved by a judge of the district court for the county in which such patient resides. Any person desiring to be admitted to said sanatorium as an indigent public patient or a nonindigent public patient, or any person for and on behalf of said person, may file with the clerk of the district court of the county in which such person resides, a petition for approval of his application in such form as shall be prescribed by the board. Upon receipt of such petition duly signed and verified, the clerk of the district court shall present the same at the earliest date to the judge and the judge of the district court shall adjudge the matter.

History: L. 1937, ch. 38, § 23; C. 1943, Collateral References.
76A-5-25.

Hospitals 6.
41 C.J.S. Hospitals § 5.

55-6-20. Certification of approval.—If the district judge finds that such person is eligible for admission to the sanatorium under this act, the district judge shall certify his findings to the superintendent of the institution. No such person shall be admitted to the institution who is found by the judge on such proceeding to be not entitled to be received and treated therein as an indigent public patient or nonindigent public patient.

History: L. 1937, ch. 38, § 25; C. 1943, Collateral References.
76A-5-26.

Hospitals 6.
41 C.J.S. Hospitals § 5.

55-6-21. Admission of disabled miners—Terms—Conditions.—Admission of disabled miners having the necessary qualifications as members shall be by application of the miner, or if incompetent by his guardian or friend, and the terms and conditions of the admission of members shall be as prescribed by the public welfare commission in its rules and regulations, providing that the same shall not be inconsistent with law or the purpose of this act.

History: L. 1937, ch. 38, § 26, enacted
by L. 1941, ch. 70, § 2; C. 1943, 76A-5-27.

55-6-22. Medical director to receive applications.—The medical director shall receive applications for hospital and medical benefits provided for by Title 34, chapter 7, sections 34-7-1 and 34-7-2, Utah Code Annotated 1953, and pass upon the same, making and entering orders in accordance with the facts disclosed and rendering such relief within a sound discretion as is contemplated by said sections.

History: L. 1937, ch. 38, § 27, enacted the act as "Title 42, Chapter 5, Sections
by L. 1941, ch. 70, § 3; C. 1943, 76A-5-28. 1 and 2, Revised Statutes of Utah, 1933."

Compiler's Note.

The reference in this section to "Title 34, chapter 7, sections 34-7-1 and 34-7-2, Utah Code Annotated 1953" appeared in

Collateral References.

Hospitals 6.
41 C.J.S. Hospitals § 5.

CHAPTER 7

ALCOHOLICS

- Section 55-7-1. Alcoholism—Creation of board to investigate causes—Education and treatment.
- 55-7-2. Duty of state public welfare commission.
- 55-7-3. Cooperation of medical school and others with board and commission.
- 55-7-4. Board—Members—Number—Appointment—Term—Qualifications.
- 55-7-5. Compensation.
- 55-7-6. Powers and duties—Cooperation with Utah State Committee for Education on Alcoholism—Hospital care and treatment.
- 55-7-7. Administrative director—Salary and expenses—Personnel.
- 55-7-8. Chairman, vice-chairman and officers—Rules of organization and procedure—Meetings.
- 55-7-9. Offices of board.
- 55-7-10. Report and financial statement.

55-7-1. Alcoholism—Creation of board to investigate causes—Education and treatment.—There is created a board to investigate the causes of alcoholism and to provide education thereon and treatment of alcoholics. Said board shall be composed of five citizens of the state of Utah to be appointed by the governor of the state of Utah for a term of two years until February 1, 1949. Said members shall be over the age of thirty-five years and shall have been residents of the state for at least ten years.

History: L. 1947, ch. 86, § 1; C. 1943, Supp., 76A-7-1.

Title of Act.

An act authorizing and directing the expenditure of \$50,000 of the funds of the Public Welfare Commission of the State of Utah in cooperation with a board of

five members whose duties shall be to investigate the causes of alcoholics and alcoholism and provide for education thereon and treatment of alcoholics.

Collateral References.

Drunkards⊃4.

28 C.J.S. Drunkards § 7.

55-7-2. Duty of state public welfare commission.—The public welfare commission of the state of Utah shall carry out the provisions of said act and shall, in cooperation with said board, study the causes of alcoholism, provide for the education thereon, and shall cooperate with Alcoholics Anonymous for the treatment of alcoholics, and may also cooperate with the state superintendent of public instruction in carrying out the provisions of this act.

History: L. 1947, ch. 86, § 2; C. 1943, Supp., 76A-7-2.

55-7-3. Cooperation of medical school and others with board and commission.—The board and the public welfare commission may cooperate with the Medical School of the University of Utah and the Graduate School of Social Work of the University of Utah and shall make findings and a report on their activities to the state legislature on or before January 10, 1949.

History: L. 1947, ch. 86, § 3; C. 1943, Supp., 76A-7-3.

Compiler's Note.

Section 4 of Laws 1947, ch. 86 (76A-7-4, Code 1943) was an appropriation measure which provided as follows: "To carry out the functions of this act, there is hereby

appropriated to the Public Welfare Commission out of the emergency relief fund the sum of \$50,000 or so much thereof as may be necessary."

Collateral References.

Drunkards⊃4.

28 C.J.S. Drunkards § 7.

55-7-4. Board—Members—Number—Appointment — Term — Qualifications.—There is hereby created a board of five members to be known as the state board on alcoholism, to be appointed by the governor for a term of two years, such appointments shall be selected from members of the Utah Committee for Education on Alcoholism. Said members shall be citizens of the state of Utah and of an age of at least 35 years.

History: L. 1949, ch. 58, § 1; C. 1943, Supp., 76A-7-5.

Title of Act.

An act creating a board of five members, which shall be known as the State Board

on Alcoholism, whose duties it shall be to investigate the causes of alcoholics and alcoholism and to cooperate with the Utah State Committee for Education on Alcoholism and Alcoholics Anonymous and providing for an appropriation therefor.

55-7-5. Compensation.—The members of the board shall serve without salary or compensation of any kind.

History: L. 1949, ch. 58, § 2; C. 1943, Collateral References.
Supp., 76A-7-6.

Drunkards 4.
28 C.J.S. Drunkards § 7.

55-7-6. Powers and duties—Cooperation with Utah State Committee for Education on Alcoholism—Hospital care and treatment.—The board is directed to cooperate as long as it deems it advisable with the Utah State Committee for Education on Alcoholism and shall have the power and authority to provide the Utah Committee for Education on Alcoholism with essential material such as visual aids, educational bulletins, literature, and other informative material which the board may determine necessary in the efficient conducting of the educational program. The board shall also have power to furnish hospital care and treatment for alcoholics unable to provide such treatment personally under rules and regulations prescribed by the board.

History: L. 1949, ch. 58, § 3; C. 1943,
Supp., 76A-7-7.

55-7-7. Administrative director—Salary and expenses—Personnel.—The board shall have the power to employ an administrative director with research training and administrative background at a salary of not to exceed \$4500.00 per year and in addition, he shall receive his actual and necessary expenses incurred in the performance of his duties, and shall also employ other personnel as may be needed to carry out the provisions of this act. The director shall devote his full time and attention to the duties of his office.

History: L. 1949, ch. 58, § 4; C. 1943, Collateral References.
Supp., 76A-7-8.

Drunkards 4.
28 C.J.S. Drunkards § 7.

55-7-8. Chairman, vice-chairman and officers—Rules of organization and procedure—Meetings.—The board shall elect from its members a chairman, vice-chairman, and other officers as it deems advisable and shall establish its own rules of organization and procedure. Meetings of the board shall be held at least once each month.

History: L. 1949, ch. 58, § 5; C. 1943,
Supp., 76A-7-9.

55-7-9. Offices of board.—The board may provide for offices for the conduct of its business.

History: L. 1949, ch. 58, § 6; C. 1943,
Supp., 76A-7-10.

55-7-10. Report and financial statement.—The board shall make a biennial report to the governor and the legislature, together with a complete financial statement.

History: L. 1949, ch. 58, § 7; C. 1943,
Supp., 76A-7-11.

Compiler's Note.

Section 8 of Laws 1949, ch. 58 (76A-7-12, Code 1943, Supp.) which was an appropriation measure provided as follows: "To carry out the provisions of this act, there

is hereby transferred and appropriated to the Board all unexpended sums appropriated under Chapter 86, Laws of Utah 1947 [55-7-1 to 55-7-4] and remaining on hand at the time of the passage of this act."

Effective Date.

Section 9 of Laws 1949, ch. 58 (76A-7-

13, Code 1943, Supp.) provided that act should take effect on approval. Approved February 21, 1949.

Collateral References.

Drunkards \Rightarrow 4.
28 C.J.S. Drunkards § 7.

CHAPTER 8

PLACING OUT OF CHILDREN

Section 55-8-1. License required.

55-8-2. Records to be kept—Standards for agencies—Transferring of custody limited.

55-8-3. Placement of children from without state.

55-8-4. Investigation of agencies—Renewal of license annually.

55-8-5. Violations a misdemeanor.

55-8-1. License required.—No person, agency, firm, corporation or association shall receive or accept a child under sixteen years of age for placement or adoption, or place such a child either temporarily or permanently in a home other than the home of the child's relatives within the second degree, or solicit money for the purpose of child placing, without having in full force a written license from the state department of public welfare.

History: L. 1923, ch. 59, § 1; 1931, ch. 36, § 1; R. S. 1933, 14-3-1; L. 1937, ch. 16, § 1; C. 1943, 14-3-1.

Compiler's Note.

The 1937 amendment made various changes in text.

Comparable Provision.

Iowa Code 1950, § 238.3 (state board of social welfare is empowered to grant license for one year for conduct of any child-placing agency that is for the public good and is conducted by reputable and responsible person).

Decisions from other Jurisdictions—Iowa.

Where children without homes were cared for in home of charitable institution which was a home-finding agency under the statute, and under its guardianship, until reaching legal age, children were residents of school township in which such home was located, as regards township's liability for their tuition as pupils of another school district's high school, township not having any high school. School Tp. 76 of Muscatine County v. Nicholson, 227 Iowa 290, 288 N. W. 123.

Collateral References.

Infants \Rightarrow 17.
43 C.J.S. Infants §§ 17, 18.

55-8-2. Records to be kept—Standards for agencies—Transferring of custody limited.—(a) Every agency licensed as herein provided to receive, secure homes for, or otherwise care for children, shall keep a record containing the dates and places of birth, the names, ages and former residences of all children received; a statement of the physical and mental condition of such children by a competent physician; the names, former residences, occupations, and character so far as known of the parents; the dates of reception, placing out and adoption, together with the name, occupation and residence of the person with whom the child is placed; the date and cause of any removal to any other home; the date and cause of termination of guardianship; and a brief history of each child and such other facts as the department shall require until he shall have reached the age of eighteen years or shall have been legally adopted or discharged according to law.

(b) The state department of public welfare shall adopt and make available minimum standards required of agencies seeking license under

this act and shall make rules and regulations in harmony with approved standards for the conduct of such agencies as shall be granted a license as herein provided.

(c) No person shall hereafter assign, relinquish or otherwise transfer to another, other than a relative of the child within the second degree, his rights or duties with respect to the permanent care or custody of a child under sixteen years of age, unless specifically authorized or required so to do by an order or decree of court or unless the transfer is made to or by an agency licensed by the state department of public welfare to receive and place children as herein provided. Any attempted transfer or assignment written or otherwise made in violation of this section shall be null and void.

History: L. 1923, ch. 59, § 2; R. S. 1933, 14-3-2; L. 1937, ch. 16, § 1; C. 1943, 14-3-2.

Compiler's Note.

The 1937 amendment inserted the words "the dates and places of birth" in subsec. (a) and added subsecs. (b) and (c).

Comparable Provision.

Iowa Code 1950, § 238.16 (board is required to make regulations and rules); § 238.17 (to prescribe forms for registration and record of persons cared for by licensed agencies); § 238.18 (licensees must keep records and make reports).

55-8-3. Placement of children from without state.—Every child brought into or sent into the state for placement or adoption in the state shall be sent to and placed by an agency licensed under the provisions of this chapter.

History: L. 1923, ch. 59, § 3; R. S. 1933, 14-3-3; L. 1937, ch. 16, § 1; C. 1943, 14-3-3.

Compiler's Note.

The 1937 amendment deleted proviso of former section.

Comparable Provision.

Iowa Code 1950, § 238.33 (no agency may bring child into state for purpose

1. Order of court.

Amendment of this section, so as to require court order before permanent care or custody is relinquished or transferred, did not operate to amend adoption statutes of Title 78, chapter 30, regarding necessity and manner of consent by natural parents. In re Thompson, 100 U. 59, 110 P. 2d 370.

Collateral References.

Infants—17.
43 C.J.S. Infants § 18.

of placing him out or procuring his adoption without first obtaining consent of state board of social welfare; such agency must conform to rules of state board).

Collateral References.

Infants—17.
43 C.J.S. Infants § 18.

55-8-4. Investigation of agencies—Renewal of license annually.—It shall be the duty of the state department of public welfare to pass annually on the fitness of every agency which receives or accepts children for placement or adoption or places children in private homes. Annually, at such times as the department shall direct, every such agency shall make a report to the state department of public welfare, showing its condition, management and competency to adequately care for such children as are or may be committed thereto or received thereby, the system of visitation employed for children placed in private homes, and such other facts as the department may require. When the department is satisfied that such agency is competent and has adequate facilities to care for such children, and that the requirements of the statutes covering the management of such agencies are being complied with, it shall issue to the same a license to that effect,

which shall continue in force for one year, unless sooner revoked by the department.

History: L. 1923, ch. 59, § 4; R. S. 1933, 14-3-4; L. 1937, ch. 16, § 1; C. 1943, 14-3-4.

Compiler's Note.

The 1937 amendment substituted "department of public welfare" for "state board of health" in first part of section and "department" for "board" wherever it occurs.

Comparable Provision.

Iowa Code 1950, § 238.19 (agents and officers of the board may inspect premises, conditions of agency, and may inquire into all matters concerning agencies and children in care thereof).

Collateral References.

Infants 17.

43 C.J.S. Infants § 18.

55-8.5. Violations a misdemeanor.—Every person, agency, firm, corporation or association violating any of the provisions of this chapter or who intentionally makes any false statement or report to the state department of public welfare with reference to the matters contained herein is guilty of a misdemeanor.

History: L. 1923, ch. 59, § 5; R. S. 1933, 14-3-5; L. 1937, ch. 16, § 1; C. 1943, 14-3-5.

Compiler's Note.

The 1937 amendment inserted "agency" after "person" and "association" after "corporation" and substituted "depart-

ment of public welfare" for "board of health."

Collateral References.

Infants 17.

43 C.J.S. Infants § 18.

CHAPTER 9

DAY NURSERIES

Section 55-9-1. Day nurseries—License—Exceptions.

55-9-2. Visitation and inspection.

55-9-3. Application for and contents of license.

55-9-4. Revocation.

55-9-5. Crimes and penalties.

55-9-1. Day nurseries—License—Exceptions.—Except as provided herein, no day nursery, person, association, corporation, institution, or agency shall provide care and supervision for three or more children under 14 years of age in lieu of care and supervision ordinarily provided by parents in their own homes, for periods of more than four but less than twenty-four hours in any one day, with or without charge, without having in full force a license issued by or under the authority of the public welfare commission, in accordance with rules and regulations prescribed by such commission. Nothing in this act shall apply to care given to children by or in the homes of parents, legal guardians, grandparents, brothers, sisters, uncles or aunts, or as part of the program of an educational institution regulated by the boards of education of the state, or as part of the program of a parochial educational institution.

History: L. 1943, ch. 16, § 1; C. 1943, Supp., 14-8a-1.

Title of Act.

An act for the regulation and licensing

of day nurseries, persons and organizations providing day care for children.

Collateral References.

Social Security and Public Welfare 191.

43 C.J.S. Infants § 9.

55-9-2. Visitation and inspection.—The rules and regulations prescribed by the welfare department shall incorporate or provide for standards, developed by such department in cooperation with the state departments of health and education, assuring the health, safety, welfare and education of the children, and shall provide for such visits or inspections by appropriate authorities as may be necessary to obtain compliance with the standards prescribed. Failure to comply with such standards shall be cause for revocation of the license.

History: L. 1943, ch. 16, § 2; C. 1943, Collateral References.
Supp., 14-8a-2.

Social Security and Public Welfare 191.

43 C.J.S. Infants § 9.

55-9-3. Application for and contents of license.—The application for a license shall be in a form prescribed by the public welfare commission. The license shall state to whom it is issued, the particular premises where the children are to be cared for, the number of children that may be cared for at any one time, and the period during which the license will be in force and effect.

History: L. 1943, ch. 16, § 3; C. 1943, Collateral References.
Supp., 14-8a-3.

Social Security and Public Welfare 191.

43 C.J.S. Infants § 9.

55-9-4. Revocation.—Licenses may be revoked for cause by or under the authority of the public welfare commission, in accordance with rules and regulations prescribed by said commission.

History: L. 1943, ch. 16, § 4; C. 1943, Collateral References.
Supp., 14-8a-4.

Social Security and Public Welfare 191.

43 C.J.S. Infants § 9.

55-9-5. Crimes and penalties.—Any day nursery, person, association, corporation, institution, or agency violating the provisions of this act, shall be guilty of a misdemeanor.

History: L. 1943, ch. 16, § 5; C. 1943, Collateral References.
Supp., 14-8a-5.

Social Security and Public Welfare 191.

43 C.J.S. Infants § 9.

Effective Date.

Section 6 of Laws 1943, ch. 16 (14-8a-6, Code 1943, Supp.) provided that act should take effect on approval. Approved March 17, 1943.

CHAPTER 10

JUVENILE COURTS

- Section 55-10-1. Juvenile courts and probation officers—Control by public welfare commission—Costs.
- 55-10-2. Public welfare commission—Powers—Duties—Functions under existing and continuing laws.
- 55-10-3. Juvenile courts—Creation—Judges, appointment and salaries.
- 55-10-4. Clerks—Appointment—Deputy clerks—Probation officer—Powers and duties of clerk—Salaries.
- 55-10-5. Jurisdiction of juvenile courts.

- 55-10-6. Definitions.
- 55-10-7. Criminal actions against juveniles—Transfer to juvenile court.
- 55-10-8. Probation officers—Appointment.
- 55-10-9. Salaries—Assistant probation officers.
- 55-10-10. Referees—Appointment—Hearings.
- 55-10-11. Conclusions of referee—Confirmation by court.
- 55-10-12. Duties of probation department.
- 55-10-13. Preliminary inquiries.
- 55-10-14. Petition, title—Allegations and verification.
- 55-10-15. Summons.
- 55-10-16. Manner of serving summons—Service on nonresidents—Proof of service.
- 55-10-17. Witness fees and expenses.
- 55-10-18. Disobedience, contempt.
- 55-10-19. Parent or guardian entitled to be heard.
- 55-10-20. Arrest of child.
- 55-10-21. Detention pending hearing.
- 55-10-22. Without warrant.
- 55-10-23. Search and seizure warrant.
- 55-10-24. Where court or judge may sit.
- 55-10-25. Residence of child as affecting jurisdiction.
- 55-10-26. Proceedings to be informal, equitable rather than criminal.
- 55-10-27. Rules of practice and procedure.
- 55-10-28. Continuances.
- 55-10-29. Felony cases.
- 55-10-30. Judgment in cases of delinquency, dependency or neglect.
- 55-10-31. Modification during minority—Inoperative after majority.
- 55-10-32. Preferred right of parents to custody of child.
- 55-10-33. Judgment not criminal in nature—Inadmissible in evidence.
- 55-10-34. Appeals—Time for taking.
- 55-10-35. Stay pending appeal.
- 55-10-36. Judgment on appeal.
- 55-10-37. Probation officers' reports—Privileged from inspection.
- 55-10-38. Monthly reports by judge and probation officers.
- 55-10-39. Report by director in charge of correctional institutions.
- 55-10-40. Children's aid societies may be appointed guardian.
- 55-10-41. Proceedings to return custody to parents.
- 55-10-42. Waiver of right to custody by parents.
- 55-10-43. Aid societies—May procure adoption.
- 55-10-44. Termination of guardianship.
- 55-10-45. Records to be kept.
- 55-10-46. Visitation—Records privileged.
- 55-10-47. Annual reports.
- 55-10-48. Support of child in custody of juvenile court.
- 55-10-49. Special places of detention to be provided.
- 55-10-50. Rule of construction of chapter.
- 55-10-51. Contributing to delinquency—Jurisdiction of juvenile court.
- 55-10-52. Neglect or abandonment of child—Penalty.
- 55-10-53. Inducing child to leave place of custody unlawful.
- 55-10-54. Prosecution of adults—Procedure.
- 55-10-55. Practice before justices' courts to be followed.
- 55-10-56. Age of child—Presumption.
- 55-10-57. Continuing jurisdiction—Suspension of sentence.
- 55-10-58. Conditional suspension—Bond.
- 55-10-59. Conditions of bond.
- 55-10-60. Forfeiture of bond—Execution of judgment.
- 55-10-61. Appeals in cases of adults.
- 55-10-62. Juvenile court entitled to cooperation.

55-10-1. Juvenile courts and probation officers—Control by public welfare commission—Costs.—The public welfare commission shall have the general control and supervision over juvenile courts and probation officers. The commission shall have the power to fix the salaries of the judges of the juvenile courts, probation officers and other officers and employees, subject

to the standards established by the department of finance. It shall provide, according to procedure established by the department of finance, court rooms, necessary equipment, supplies and other incidentals. The cost of maintaining said courts, and the expenses of the probation work shall be paid out of the general funds of the state or other funds available to the commission for such purposes.

History: L. 1941, ch. 67, § 1; C. 1943, 14-7-1.10.

Compiler's Note.

Former section 14-7-1 (R. S. 1933) was repealed by Laws 1941, ch. 67, § 5.

Comparable Provision.

Deering's Cal. Welf. and Inst. Code, § 1710 (creating "Youth Correction Authority" to provide and administer preventive and corrective training and treatment for persons committed to it); § 1711 (three members); § 1736 (juvenile court

may in its discretion commit persons subject to its jurisdiction to the authority).

Cross-Reference.

Public welfare commission, 55-1-1 et seq.

Collateral References.

Infants—18.
43 C.J.S. Infants § 6.

Power of juvenile court to require children to testify, 151 A. L. R. 1229.

55-10-2. Public welfare commission—Powers—Duties—Functions under existing and continuing laws.—The public welfare commission shall succeed to all powers and discharge all duties and perform all functions which by existing and continuing law are conferred upon and required to be discharged or performed by the juvenile court and probation commission. Whenever any existing and continuing law refers to or names the juvenile court and probation commission or any officer or employee thereof, it shall be construed to refer to and mean the public welfare commission or the corresponding officer or employee of the public welfare commission.

History: L. 1941, ch. 67, § 2; C. 1943, 14-7-1.11.

Cross-Reference.

Public welfare commission, 55-1-1 et seq.

Collateral References.

Social Security and Public Welfare—191.
43 C.J.S. Infants § 6.

55-10-3. Juvenile courts—Creation—Judges, appointment and salaries.—In each judicial district of the state or in such juvenile court districts as the commission with the approval of the governor shall establish, there shall be a special court of record to be known as the juvenile court. The commission shall appoint for each district a judge of the juvenile court. Such judge shall be chosen because of his special qualifications for juvenile court work and shall hold office for a term of four years, and until his successor is appointed and qualified; provided, that the judge may be removed by the commission for cause. The salaries of such judges shall be fixed according to standards to be established by the department of finance.

History: L. 1931, ch. 29, § 2; R. S. 1933, 14-7-2; L. 1941, ch. 67, § 3; C. 1943, 14-7-2; L. 1947, ch. 16, § 1.

Compiler's Notes.

The 1941 amendment made various changes in text of section.

The 1947 amendment rewrote this section starting with the third sentence.

Comparable Provisions.

Deering's Cal. Welf. and Inst. Code, § 571 (each superior court exercises jurisdiction in juvenile cases; and while sitting in exercise of such jurisdiction they are known as juvenile courts); § 573 (provision as to keeping of "juvenile court record").

Idaho Code 1947, § 16-1702 (probate courts are given jurisdiction in cases coming within purview of statute pertaining to delinquent children; record books known as the "juvenile record" must be kept by the court).

Iowa Code 1950, § 231.1 (establishing juvenile court in each county); § 231.2 (juvenile court is constituted as follows: (1) of judges of district court; (2) in counties wherein there is superior or municipal court, then of judges thereof respectively, when so designated by judges of district court); § 231.6 (juvenile court is court of record; its entries of proceedings are designated "the juvenile court records").

1. Authority to establish courts.

These juvenile courts are established in

55-10-4. Clerks — Appointment — Deputy clerks — Probation officer — Powers and duties of clerk — Salaries.—The judge of the juvenile court in each district shall, by and with the advice and consent of the commission and the department of finance appoint a clerk of the juvenile court and such deputy clerks as he shall deem necessary, who shall keep a record of the proceedings of the court and perform all clerical work and discharge such duties as the judge may assign to him. The clerk shall have power to issue all process and notices required to be issued and shall also have power to take and certify acknowledgments and administer oaths. In addition thereto the clerk may be a probation officer. He shall receive a salary to be fixed according to standards established by the department of finance.

History: L. 1931, ch. 29, § 3; R. S. 1933, 14-7-3; L. 1941, ch. 67, § 3; C. 1943, 14-7-3; L. 1947, ch. 16, § 1.

Compiler's Notes.

The 1941 amendment inserted "and the department of finance" after "commission" in first sentence.

The 1947 amendment rewrote the last sentence relative to salary provisions.

55-10-5. Jurisdiction of juvenile courts.—The juvenile court shall have exclusive original jurisdiction in all cases relating to the neglect, dependency and delinquency of children who are under eighteen years of age, except in felony cases as hereinafter provided, and the custody, detention, guardianship of the person, trial and care of such neglected, dependent and delinquent children, and the employment of children as provided by law; and shall also have jurisdiction over adult persons for all misdemeanors committed by them relating to the custody, abuse, detention, guardianship, employment, probation, neglect, dependency, delinquency and care of children who are under eighteen years of age as is now or may be provided for by law.

(1) In any case in which the court shall find a child neglected, dependent or delinquent it may, in the same or in any subsequent proceedings, upon the parents of such child being duly summoned or voluntarily

pursuance of the authority vested in the legislature by Const. Art. VIII, § 1. Salt Lake County v. Salt Lake City, 42 U. 548, 134 P. 560.

Decisions from other Jurisdictions—Iowa.

The dominant purpose and aim of the Juvenile Law is not to punish but to change the line of direction of the conduct of the boy or girl and to impress on the plastic mind the necessity of good habits and correct conduct. State ex rel. Roberts v. Johnson, 196 Iowa 300, 194 N. W. 202.

Collateral References.

Infants ⇨ 18.

43 C.J.S. Infants § 6.

Cross-References.

Department of finance, 63-2-1 et seq.

Public welfare commission, 55-1-1 et seq.

Collateral References.

Infants ⇨ 18.

43 C.J.S. Infants § 6.

appearing as hereinafter provided, proceed to inquire into the ability of such parents to support the child or contribute thereto, or into the fitness of such parents to continue in the custody and control of such child. The court may enter such order or decree as shall be according to law and/or equity in the premises, and may enforce the same in any way in which a court of law or equity may enforce its orders or decrees.

(2) In any case where a juvenile fourteen years of age or older is charged with an offense which, if committed by an adult, would be a felony, the juvenile court shall have concurrent jurisdiction with the district court. In such cases the juvenile court shall either hear and make a determination of the case as provided herein, or shall bind the child over to the district court having jurisdiction of the offense; there to be prosecuted as provided by law, if in the judgment of the juvenile court such prosecution is required by the interests of the state:

(3) When jurisdiction shall have been acquired by the court in the case of any child, such child shall continue for the purposes of such case under the jurisdiction of the court until he becomes twenty-one years of age, unless discharged prior thereto or unless he is committed to the state industrial school or to the district court as hereinafter provided.

(4) Nothing herein contained shall deprive other courts of the right to determine the custody of children upon writs of habeas corpus, or when such custody is incidental to the determination of causes in such courts. Such other courts may, however, decline to pass upon questions of custody and may certify the same to the juvenile court for hearing and determination or recommendation.

(5) Any district court before whom a juvenile is charged with the commission of a felony shall first sit as a committing magistrate, and when it appears that a felony has been committed and that there is reasonable cause to believe the juvenile defendant guilty, such court shall bind the juvenile defendant over for prosecution before the district court having jurisdiction of the offense; provided, however, that if in the judgment of said district court such prosecution would be harmful to the best interest of the juvenile, he may order the case transferred to the jurisdiction of the juvenile court as provided in section 55-10-7.

History: L. 1931, ch. 29, § 4; R. S. 1933 & C. 1943, 14-7-4.

enacted. In re State in Interest of Bennett, 77 U. 247, 252, 293 P. 963.

Compiler's Note.

The reference in this section to "section 55-10-7" appeared in Code 1943 as "section 14-7-6."

Cross-Reference.

Maternity hospitals and infants' homes, 26-8-1 et seq.

1. In general.

The law creating juvenile courts and conferring upon them jurisdiction in cases relating to the custody, detention, and guardianship of delinquent children under the age of 18 years, has been amended on various occasions since it was originally

2. Construction and application.

Determination of custody, see notes to 55-10-30 and 55-10-32.

The pronoun he, as used in subsection (3) of this section, includes the female gender. Any other construction would exclude females from the terms delinquent, neglected and dependent children as used herein. *Chatwin v. Terry*, 107 U. 340, 153 P. 2d 941, followed and approved in *In re State in Interest of Johnson*, 110 U. 500, 175 P. 2d 486, 490.

3. Exclusive jurisdiction of juvenile court.

The legislature intended to confer exclusive original jurisdiction to determine

questions of custody of children and of parent's fitness and qualification to have child returned to him, in every case where in the state has become a party by the juvenile court taking custody of a child because of neglect or delinquency. Accordingly, where juvenile court has obtained jurisdiction of a child because of neglect, dependency or delinquency, district court must dismiss writ of habeas corpus. It is not discretionary. *Jensen v. Sevy*, 103 U. 220, 134 P. 2d 1081, 1087.

4. Nature and extent of jurisdiction.

Juvenile courts of this state are creatures of statute and are courts of limited jurisdiction, they do not have jurisdiction over every minor child of this state or of every parent of a minor child. In *re State in Interest of Graham*, 110 U. 159, 170 P. 2d 172, 175.

The law contemplates a then existing condition of dependency that requires the intervention of the juvenile court. In *re State in Interest of Johnson*, 110 U. 500, 175 P. 2d 486, 489.

Juvenile court is created by statute, its powers are conferred thereby, and it requires no license from executive branch of government to carry out its judicial functions. In *re Olson*, 111 U. 365, 180 P. 2d 210.

While statute confers jurisdiction on juvenile courts in certain cases where parent is not blameworthy, it certainly is designed to confer jurisdiction where parent is able to provide care and supervision and is recreant to his parental duties by failure to provide such support. In *re Olson*, 111 U. 365, 180 P. 2d 210.

Fact that third person may be providing care for child by reason of neglect of parent does not deprive juvenile court of jurisdiction to inquire into welfare of such child and to fix responsibility and determine proper custody for child within scope of statutory authority granted to court. In *re Olson*, 111 U. 365, 180 P. 2d 210.

Where father of child, which had been living with maternal grandparents since death of mother, did not traverse allegations of petition that he had neglected to support child for eight years, and did not file application for custody, juvenile court had authority to determine custody upon establishment of alleged neglect and to fix responsibility for such custody. In *re Olson*, 111 U. 365, 180 P. 2d 210.

5. Acquisition of jurisdiction.

"To bring a child within the power of the juvenile court as set out, defined and limited by the Legislature, certain steps must be taken. A preliminary inquiry made under the direction of the probation department is provided for by Section

14-7-12 [55-10-13]. And a preliminary investigation of the home must be made whenever practicable and a report in writing filed by the probation officer. A petition must be filed as required by Section 14-7-13 [55-10-14]. Said petition to invoke the jurisdiction of the court must allege facts which would make the children either 'neglected,' 'dependent,' or 'delinquent' as defined by the Legislature in Section 14-7-5 [55-10-6]." In *re State in Interest of Graham*, 110 U. 159, 170 P. 2d 172, 175, followed and approved in *re State in Interest of Johnson*, 110 U. 500, 175 P. 2d 486, 489, with respect to required allegations in petition to give juvenile court jurisdiction over the child.

"The statute specifies the method for the juvenile court to obtain jurisdiction over parents of children. A summons is provided for in Section 14-7-14 [55-10-15], and the method of service is specified in Section 14-7-15 [55-10-16]." In *re State in Interest of Graham*, 110 U. 159, 170 P. 2d 172, 175.

6. Necessity for jurisdiction.

The jurisdiction of the juvenile court over a child is a prerequisite for the obtaining of jurisdiction of a parent of that child. In *re State in Interest of Graham*, 110 U. 159, 170 P. 2d 172, 178.

7. Court record and presumptions.

As juvenile courts are courts of limited jurisdiction, the record of a case before such a court must affirmatively show that it had the required jurisdiction of the children and parents at the time it made determinations affecting the rights of those parties. Supreme Court on appeal will not presume jurisdiction of the juvenile court but will closely examine the record to see that the legislatively specified actions have been taken and the necessary facts are alleged and found to give said court jurisdiction in the particular case. In *re State in Interest of Graham*, 110 U. 159, 170 P. 2d 172, in which Mr. Justice Wolfe examined with great care the record of the juvenile court which came to the Supreme Court in that case. He found that great "liberties" had been taken with the record; that there had been changes, alterations and interlineations therein, and warned of the importance of preserving the integrity of the files of such a court.

8. Offenses by child 12 years old.

Child of 12 years of age may violate law and commit offense against person or property the same as an adult person, and defense of justification on part of defendant who shot boy attempting to burglarize his rabbit pens was available under 76-

30-10, subd. (2). *State v. Terrell*, 55 U. 314, 186 P. 108, 25 A. L. R. 497.

The legislature has power to give to the juvenile court exclusive jurisdiction of cases of neglect or delinquency of children. *Jensen v. Sevy*, 103 U. 220, 134 P. 2d 1081.

The right to the writ of habeas corpus is in no way infringed by legislation giving the juvenile court exclusive jurisdiction in all cases relating to the delinquency or neglect of children. *Jensen v. Sevy*, 103 U. 220, 134 P. 2d 1081.

Subsection (4) of this section should not be construed to apply to cases in which the state has become a party by intervention of the juvenile court. "Unless we so construe it we cannot reasonably give effect to the provision of subsection (3)." *Jensen v. Sevy*, 103 U. 220, 134 P. 2d 1081, 1088, opinion of Hoyt, District Judge.

9. Offenses by child under 18 years.

This section is cited and relied upon by Mr. Justice Larson in *Sanders v. Metropolitan Life Ins. Co.*, 104 U. 75, 85, 138 P. 2d 239, 244, for the proposition that a person under 18 years of age, who violates the law, is merely a "delinquent child" or a "juvenile," and has not committed a crime or public offense. He notes, of course, the exception contained in subsection (2) giving juvenile and district courts concurrent jurisdiction where child "fourteen years of age or older" commits a felony.

In light of this section, the district court has no jurisdiction to try and sentence defendants who were under 18 years of age at the time the offense was committed. As to such defendants the case should be transferred to the juvenile court. *State v. Musser*, 110 U. 534, 175 P. 2d 724, 740, judgment of Supreme Court vacated and cause remanded to that court to pass on certain questions involving validity of 76-13-1 in *Musser v. State*, 333 U. S. 95, 92 L. Ed. 562, 68 S. Ct. 397.

10. Sufficiency of complaint.

Arrest of five-year-old child in custody of mother, upon complaint of sheriff alleging facts insufficient to constitute delinquency, and without warrant, upon mere oral order of juvenile court, and remanding child to custody of probation officer without any determination of delinquency and refusal to admit child to bail, is beyond jurisdiction of juvenile court and requires granting of habeas corpus writ to obtain discharge of child. *Cooke v. Cooke*, 67 U. 371, 248 P. 83.

11. Allegations of petition.

Compliance with this section is necessary to bring a child within the power of

the juvenile court. Accordingly petition to invoke jurisdiction of juvenile court as provided for by 55-10-14 must allege facts which would make the children either "neglected," "dependent" or "delinquent" as defined by this section. If sufficient facts are not alleged in the petition to bring children within the jurisdiction of the juvenile court as it is defined and limited by this section, that court does not acquire jurisdiction, and, therefore, it can make no binding orders in reference thereto. In *re State in Interest of Graham*, 110 U. 159, 170 P. 2d 172, 175, holding petition to be insufficient to confer jurisdiction on juvenile court.

The rules announced in the foregoing case with respect to proper pleadings to invoke the jurisdiction of the juvenile court over an abandoned, dependent, neglected or delinquent child, were approved in *In re State in Interest of Johnson*, 110 U. 500, 175 P. 2d 486, 489, quoting at length the language of the petition.

Where petition does not allege that child in question was homeless, or destitute, or without proper support or care through no fault of his parent, but all it says along this line is that "the mother is financially unable to provide a fit and proper home for said child," this is not sufficient allegation of grounds for depriving her of the custody of the child. "A parent might suddenly suffer financial reverses. That is not ground for depriving her of the custody of her child." In *re State in Interest of Johnson*, 110 U. 500, 175 P. 2d 486, 489.

An allegation that the child is "wholly without legal guardianship in the state of Utah," is duplicitous and surplusage, in the face of the allegation that the child has a mother. In *re State in Interest of Johnson*, 110 U. 500, 175 P. 2d 486, 489.

Allegation in petition that other relatives or friends provide care for child neglected by parent does not negative averment that parent has neglected his parental responsibilities. In *re Olson*, 111 U. 365, 180 P. 2d 210.

Petition, alleging facts showing that child was neglected by her father and that third person was providing care for her, alleged sufficient facts to confer jurisdiction on juvenile court to conduct inquiry into status and well-being of child, even though petition failed to state facts sufficient to show that child was "dependent child" within meaning of 55-10-6. In *re Olson*, 111 U. 365, 180 P. 2d 210, citing *In re Bradley*, 109 U. 538, 167 P. 2d 978.

12. Contribution for support.

Juvenile court has authority under subdivision (1) of this section to require father to contribute to support of

neglected child, even though custody is awarded to third person. *In re Olson*, 111 U. 365, 180 P. 2d 210.

Parent must be given adequate notice of proceeding before juvenile court may require parent to support neglected child upon awarding custody to third person. *In re Olson*, 111 U. 365, 180 P. 2d 210.

13. Effect of marriage of delinquent.

Marriage of the juvenile delinquent does not suspend operation of this section, nor take away jurisdiction of juvenile court over delinquent until child reaches majority. *Stoker v. Gowans*, 45 U. 556, 147 P. 911, Ann. Cas. 1916E, 1025, followed and approved in *Chatwin v. Terry*, 107 U. 340, 153 P. 2d 941, and court took jurisdiction over a delinquent juvenile, who was married, but under 21 years of age. *Chatwin v. Terry* was followed and approved in *In re State in Interest of Johnson*, 110 U. 500, 175 P. 2d 486, 490.

14. Juvenile court as committing magistrate.

Under former statute providing that the juvenile court should act as committing magistrate with same jurisdiction as a justice of the peace sitting as a committing magistrate, juvenile court did not have exclusive jurisdiction to act as committing magistrate so that where preliminary hearing was had before city judge it could not be contended that defendant, a juvenile, did not have preliminary hearing as guaranteed by Const. Art. I, § 13. *State v. Tweed*, 63 U. 176, 224 P. 443.

15. Privileges of minor.

On petition for writ of habeas corpus, where it appeared that petitioner was adjudged in contempt of court for failing to answer question whether defendant, in prosecution for having carnal knowledge of petitioner, had had sexual intercourse with petitioner on dates other than the date of the offense being tried, held the objection on grounds of relevancy to the

question should have been sustained, and petitioner's plea of privilege should have been allowed, for although petitioner was a minor, she would be subjected to degradation had she testified in the affirmative, and although she was below the age to consent to the crime charged against defendant, she was susceptible of being proceeded against in the juvenile court. *In re Sadleir*, 97 U. 291, 85 P. 2d 810.

16. Raising and waiving objections.

Even in the absence of an assignment of error, the Supreme Court of this state will take cognizance of the want of jurisdiction of the district court to try and sentence persons under the age of 18 years at the time the alleged offense was committed. *State v. Musser*, 110 U. 534, 175 P. 2d 724, 740, judgment of Supreme Court vacated and cause remanded to that court to pass on certain questions involving validity of 76-12-1. *Musser v. State*, 333 U. S. 95, 92 L. Ed. 562, 68 S. Ct. 397.

Collateral References.

Infants—18.

43 C.J.S. Infants § 6.

Age of child at time of alleged offense or delinquency, or at time legal proceedings are commenced, as criterion of jurisdiction of juvenile court, 123 A. L. R. 446.

Jurisdiction of another court over child as affected by assumption of jurisdiction by juvenile court, 11 A. L. R. 147, 78 A. L. R. 317.

Marriage as affecting jurisdiction of juvenile court over delinquent or dependent, 19 A. L. R. 616, 49 A. L. R. 402, 14 A. L. R. 2d 336.

Power of juvenile court to exercise continuing jurisdiction over infant delinquent or offender, 76 A. L. R. 657.

Removal of child from state pending proceedings for custody as defeating jurisdiction to award custody, 171 A. L. R. 1405.

55-10-6. Definitions.—For the purpose of this chapter, "children's aid society" shall mean any duly organized society incorporated under the laws of this state and having among its objects the protection of children from cruelty, and the care and control of delinquent, neglected and dependent children. The articles of incorporation of every such society must specifically provide that any abuse of the rights granted under the provisions of this chapter shall subject such corporation to an action by the attorney-general, under the provisions of chapter 66 of the Code of Civil Procedure.

"Institution" shall mean any building, public or private, under the control of a competent board of managers, and used as a home or place of detention, correction or punishment for delinquent, neglected or dependent children.

"Parent" when used in relation to a child, shall include guardian and every person who is by law liable to maintain a child.

"Place of safety" shall include any industrial school, detention home or any shelter or temporary home established by any children's aid society, orphans' home, or other institution for the protection of children, duly incorporated under the laws of this state for the purpose of this chapter.

The word "commission" shall mean the juvenile court and probation commission.

The word "court" shall mean the juvenile court where not otherwise specified.

The word "child" means a person less than eighteen years of age.

The word "adult" means a person eighteen years of age or older.

The words "delinquent child" include:

A child who has violated any state law or any ordinance or regulation of a subdivision of the state.

A child who by reason of being wayward or habitually disobedient is uncontrolled by his parent, guardian or custodian.

A child who is habitually truant from school or home.

A child who so departs himself as to injure or endanger the morals or health of himself or others.

The words "neglected child" include:

A child who is abandoned by his parent, guardian or custodian.

A child who lacks proper parental care by reason of the fault or habits of the parent, guardian or custodian.

A child whose parent, guardian or custodian neglects or refuses to provide proper or necessary subsistence, education, medical or surgical care or other care necessary for his health, morals or well-being.

A child whose parent, guardian or custodian neglects or refuses to provide the special care made necessary by his mental condition.

A child who is found in a disreputable place or who associates with vagrant, vicious or immoral persons.

A child who engages in an occupation or is in a situation dangerous to life or limb or injurious to the health or morals of himself or others.

The words "dependent child" include:

A child who is homeless or destitute or without proper support or care through no fault of his parent or guardian.

A child who lacks proper care by reason of the mental or physical condition of the parent, guardian or custodian.

A child whose custody is in question or dispute.

History: L. 1931, ch. 29, § 11; R. S. 1933 & C. 1943, 14-7-5.

Compiler's Note.

The chapter 66 of the Code of Civil Procedure referred to in text has since been repealed. For provisions relative to Quo Warranto, see Rules of Civil Procedure, Rule 65B.

1. Manner of service of summons.

The method of service by which the juvenile court obtains jurisdiction over parents of children is provided for by this section. In re State in Interest of Graham, 110 U. 159, 170 P. 2d 172, 175.

2. What constitutes "institution."

Children's Home Society, a California corporation, was held to be an "institu-

tion" within the meaning of this definition. *Stanford v. Gray*, 42 U. 228, 238, 129 P. 423, Ann. Cas. 1916A, 989, applying identical provision from Comp. Laws 1907, except for word "neglected" in present definition.

3. Offenses by child under 18 years.

This section is cited and relied upon by *Mr. Justice Larson in Sanders v. Metropolitan Life Ins. Co.*, 104 U. 75, 85, 138 P. 2d 239, 244, for the proposition that a person under 18 years of age, who violates the law, is merely a "delinquent child" or a "juvenile," and has not committed a crime or public offense.

4. Custody in question or dispute.

The custody of the child is not "in question or dispute" in the sense contemplated by this section, so long as it appears that the natural parent has the undisputed right to custody. When the custody is conceded to be in the parent, but action is instituted to have that custody changed to another as a protection to the child, custody is not "in question or dispute" as contemplated by the words of this section. On the other hand, if the child is not in the custody of a natural parent and the contestants for its custody are not obligated by law to assume responsibility for its care, it is a child whose custody is "in question or dispute," requiring the state to consider the child as a dependent child as defined by this section. *In re State in Interest of Johnson*, 110 U. 500, 175 P. 2d 486.

5. Abandoned, neglected and dependent child.

Whether a child is to be regarded as "abandoned," or "dependent" or "neglected" within the meaning of this section, depends upon the facts and circumstances of each case. *In re Bradley*, 109 U. 538, 167 P. 2d 978, 983, reviewing and doubting some earlier Utah cases, and *Mr. Justice Wolfe* concurring specially.

Even though there was evidence in the record that the mother contemplated turn-

ing her child over to a nursery in California while she worked, this fact in and of itself is no evidence of any idea of abandoning the child. *In re State in Interest of Johnson*, 110 U. 500, 175 P. 2d 486, 488.

Fact that this section specifies that "dependent child" shall include "child who is homeless or destitute" through no fault of parent, does not mean that child who is not provided with proper home by reason of fault and neglect of parent is not "dependent child." *In re Olson*, 111 U. 365, 180 P. 2d 210.

Petition alleging that, since death of child's mother, father had failed to care or provide for child and that maternal grandparents were caring for child, sufficiently showed "neglect" on part of father to support child, but did not allege sufficient facts to show "dependency." *In re Olson*, 111 U. 365, 180 P. 2d 210.

Facts that maternal grandparents honored request of dying mother to look after child, assumed responsibility of providing care and training for child and did not request financial assistance from father, did not preclude finding that child was "neglected child" within meaning of this section, where father, although not lacking in employment, made no offer to assist financially during eight-year period before manifesting apparent interest to have child live in his home. *In re Olson*, 111 U. 365, 180 P. 2d 210.

6. Review.

Where sufficient material findings supported by evidence upheld judgment that child was "neglected" and that she should be placed in custody of her maternal aunt and uncle by marriage, Supreme Court could not disturb judgment on review, even though some findings were surplusage. *In re Olson*, 111 U. 365, 180 P. 2d 210.

Collateral References.

Social Security and Public Welfare 191.

43 C.J.S. Infants § 18.

55-10-7. Criminal actions against juveniles—Transfer to juvenile court.—No child under eighteen years shall be charged with or convicted of a crime in any court except as provided herein. If during the pendency of a criminal or quasi-criminal charge against any person in any other court, except felony cases brought before the district courts, it shall be ascertained that said person was under the age of eighteen years at the time of committing the alleged offense, it shall be the duty of such other court to transfer such case immediately, together with a transcript of the proceedings and all the papers, documents and testimony connected therewith, to the juvenile court having jurisdiction. The court

may be declared forfeited and terminated by the court, and the original sentence may be executed as if it had never been suspended, and the term of any jail sentence imposed in any such case shall commence from the date of the incarceration of any such person after the forfeiture of such bond, but any part of such sentence which may have already been served shall be deducted.

History: L. 1931, ch. 29, § 60; R. S. 1933 **Collateral References.**
& C. 1943, 14-7-59.

Infants 13.
43 C.J.S. Infants § 13.

55-10-61. Appeals in cases of adults.—Appeals from final judgments or decrees in all cases of misdemeanors of adults in contributing to the dependency, neglect or delinquency of any juvenile may be taken to the district court in and for the county in which the juvenile court is held, in the same manner and with the same effect as is now or may be provided by law for taking appeals from justices' courts. It shall be the duty of the district attorney of the district wherein the case originated to represent the state in all such appeals.

History: L. 1931, ch. 29, § 61; R. S. 1933 **Collateral References.**
& C. 1943, 14-7-60.

Infants 13.
43 C.J.S. Infants § 13.

Cross-Reference.

Appeals from justices' courts, 77-57-38
et seq.

55-10-62. Juvenile court entitled to cooperation.—Every county, town or municipal officer or department shall render all assistance and cooperation within his or its jurisdiction or power to further the objects of this chapter, and the juvenile courts are authorized to seek the cooperation of all societies or organizations, public or private, having for their object the protection or aid of children in order to carry out the provisions of this chapter.

History: L. 1931, ch. 29, § 62; R. S. 1933 **Collateral References.**
& C. 1943, 14-7-61.

Infants 16.4.
43 C.J.S. Infants § 93.

CHAPTER 11

DETENTION SCHOOLS

- Section 55-11-1. Establishment—Superintendent.
55-11-2. Curriculum—Teachers.
55-11-3. Commitment from one county to another—Costs.
55-11-4. Superintendent—Duties and salary.
55-11-5. Boards of education to supply books.
55-11-6. Building for detention school.
55-11-7. Cities to contribute to support.
55-11-8. Detention school fund.

55-11-1. Establishment—Superintendent.—Upon recommendation of the juvenile court commission, the board of county commissioners of each county containing cities of the first or the second class shall, and in all other counties may, establish detention schools, one for boys and one for girls, not connected with any jail, which shall be in charge of a superin-

tendent to be appointed by the county commissioners upon recommendation from the juvenile court having jurisdiction in the county where such schools shall be established. It shall be the duty of the county commissioners to approve or disapprove the recommendation within twenty days after the submission thereof; such recommendation shall be considered approved and the superintendent deemed appointed in case the county commissioners shall fail within said time to take any action thereon. The employees of such detention school shall be appointed in the same manner as the superintendent.

History: L. 1907, ch. 144, § 1; C. L. 1907, § 720x42; L. 1909, ch. 110, § 1; 1911, ch. 54, § 1; C. L. 1917, § 1853; R. S. 1933 & C. 1943, 14-8-1.

Comparable Provision.

Iowa Code 1950, § 232.35 (suitable detention home and school for dependent, neglected, and delinquent children must be provided in counties having population of more than 40,000; may be provided in counties of over 30,000 population).

Cross-Reference.

Industrial school, 64-6-1 et seq.

1. Validity.

This section is constitutional. Salt Lake

County v. Salt Lake City, 42 U. 548, 134 P. 560. See also Const. Art. VI, §§ 8, 11, 28, and 29, and Art. XI, § 4.

2. Effect on taxing power.

This section is not an interference with taxing power of the cities. Salt Lake County v. Salt Lake City, 42 U. 548, 134 P. 560.

3. Wisdom of legislation.

The wisdom of this law is for the legislature, and the courts will not interfere with its determination. Salt Lake County v. Salt Lake City, 42 U. 548, 134 P. 560.

Collateral References.

Infants ⊕ 13.

43 C.J.S. Infants § 13.

55-11-2. Curriculum—Teachers.—There shall be provided in each detention school instruction in branches of education similar to those given in the public schools of the city and county up to and including the eighth grade, and in addition thereto manual training and arts for boys and domestic science and arts for girls. Such schools shall be supplied with all necessary teachers and help, and convenient facilities for the care of inmates thereof; provided, that in lieu of teaching said branches of education at detention schools, the superintendents thereof, by and with the consent of the juvenile court commission, may make the necessary arrangements with the proper school board and send the inmates of detention schools to the nearest or most convenient public schools.

History: L. 1907, ch. 144, § 1; C. L. 1907, § 720x42; L. 1909, ch. 110, § 1; 1911, ch. 54, § 1; C. L. 1917, § 1853; R. S. 1933 & C. 1943, 14-8-2.

Collateral References.

Infants ⊕ 13.

43 C.J.S. Infants § 13.

55-11-3. Commitment from one county to another—Costs.—In any case where it becomes necessary for any juvenile court to order a delinquent child, not residing in a county wherein there is established a detention school, to a detention school in another county, the county commissioners of the county maintaining a detention school may charge the county from which such delinquent child is sent a reasonable sum, not to exceed the actual cost of the support and maintenance of such child.

History: L. 1907, ch. 144, § 2; C. L. 1907, § 720x43; L. 1909, ch. 110, § 1; C. L. 1917, § 1854; L. 1927, ch. 13, § 1; R. S. 1933 & C. 1943, 14-8-3.

Collateral References.

Infants ⊕ 13.

43 C.J.S. Infants § 13.

55-11-4. Superintendent—Duties and salary.—The superintendent shall keep a record of such children and such other information as may be required by the juvenile court or the county commissioners. The salary of the superintendent shall be fixed by the county commissioners, but shall not exceed \$1,200 per year. The salaries of other employees shall be fixed by the county commissioners. The salary of the superintendent and other employees shall be paid out of the general funds of the county.

History: L. 1907, ch. 144, § 3; C. L. 1907, § 720x44; C. L. 1917, § 1855; R. S. 1933 & C. 1943, 14-8-4.

Collateral References.

Infants⇒13.
43 C.J.S. Infants § 13.

55-11-5. Boards of education to supply books.—When any child is sent to a detention school by order of the juvenile court, the board of education of the school district where the child resides shall provide such child with the proper school books and supplies in the same manner as if the child were attending the regular school. Such child shall be permitted to take such books and supplies with him to the detention school, and shall return them to the school he attended when his period of detention shall terminate. While the child is in the detention school, the school shall be held responsible for the books and supplies.

History: L. 1907, ch. 144, § 4; C. L. 1907, § 720x45; C. L. 1917, § 1856; R. S. 1933 & C. 1943, 14-8-5.

Collateral References.

Infants⇒13.
43 C.J.S. Infants § 13.

55-11-6. Building for detention school.—The county commissioners may secure by rental or purchase a building which shall be known as the detention school, or any other name which may designate the place as a school. The building shall be so arranged, furnished and maintained that, as near as practicable for their safe custody, the inmates shall be cared for as in a family home and public school.

History: L. 1907, ch. 144, § 5; C. L. 1907, § 720x46; C. L. 1917, § 1857; R. S. 1933 & C. 1943, 14-8-6.

Collateral References.

Infants⇒13.
43 C.J.S. Infants § 13.

55-11-7. Cities to contribute to support.—The county establishing and maintaining a detention school shall be entitled to recover from the cities of the first and of the second class situated in said county such sum for the care, support and maintenance of each child from such cities as may be reasonable therefor, and in no case shall such sum be less than the per capita monthly or yearly amount of such expense in the detention school in which the child is committed, or the actual expense incurred by the county for the care and maintenance of such child. Said amounts paid by the cities of the first and of the second class for the care and maintenance of children sent to the detention school shall be paid monthly.

History: L. 1907, ch. 144, § 6; C. L. 1907, § 720x47; C. L. 1917, § 1858; R. S. 1933 & C. 1943, 14-8-7.

1. Validity.

This section does not violate Const. Art. II, § 4. Salt Lake County v. Salt Lake City, 42 U. 548, 134 P. 560.

2. Effect on taxing power.

This section is not an interference with taxing powers of the cities. Salt Lake County v. Salt Lake City, 42 U. 548, 134 P. 560.


Collateral References.

Infants⇒13.
43 C.J.S. Infants § 13.

55-11-8. Detention school fund.—The county commissioners of each county establishing a detention school shall set aside an amount from the general fund of the county, to be known as the detention school fund. All money collected from cities of the first and of the second class and from parents or guardians for the care and maintenance of children in the detention school shall be placed to the credit of such special fund. The expenses of any child residing in cities of the first or of the second class cared for in a detention school shall be paid out of the general fund of the city.

History: L. 1907, ch. 144, § 7; C. L. 1907, § 720x48; C. L. 1917, § 1859; R. S. 1933 & C. 1943, 14-8-8.

Collateral References.

Infants  13.

43 C.J.S. Infants § 13.